

## **REMARKS**

The Examiner is thanked for the performance of a thorough search. In this response, no claims are amended, added or canceled. Thus, Claims 1-30 are pending. The amendments to the Specification do not add any new matter to this application. All issues raised in the Office Action mailed May 30, 2008 are addressed below.

### **I. ISSUES NOT RELATING TO PRIOR ART**

#### **A. INFORMATION DISCLOSURE STATEMENT**

The Office action at page 2 states the Information Disclosure Statement (IDS) filed April 24, 2004 fails to comply with 37 CFR 1.98(a)(1) because no list of patents, publications, applications or other information for consideration by the Office was submitted with the IDS.

In response, Applicants note that a review of the electronic records maintained by the Office includes no list for consideration. However, Applicants' paper records indicate such a list was submitted by Applicants, suggesting the list was not properly scanned and processed by the Office.

Attached to this reply is a true and correct copy of the IDS materials submitted by Applicants, along with a true and correct copy of the Acknowledgment Receipt stamped by the Office. The Receipt clearly indicates a one-page Form PTO-1449 was submitted by Applicants on April 24, 2004.

Accordingly, Applicants respectfully request consideration by the Office of the copy of the one-page Form PTO-1449 previously submitted by Applicants, and that a signed and initialed copy be placed by the Examiner into official records maintained by the Office.

### B. SPECIFICATION --- OBJECTION

The Office action at page 2 objects to the Specification as containing a minor typographical error in paragraph [0017]. In response, amended paragraph [0017] corrects the error, making the rejection moot. Applicants respectfully request reconsideration and withdrawal of the objection.

### C. SPECIFICATION --- OBJECTION

The Office action at page 3 objects to the Specification as failing to provide proper antecedent basis for the term “machine-readable medium” appearing in Claims 2 and 13-21. In response, amended paragraphs [0038]-[0040] now provide antecedent basis, making the rejection moot. Applicants respectfully request reconsideration and withdrawal of the objection.

### D. CLAIMS 2 AND 13-21 --- 35 U.S.C. § 101

The Office action at page 2 indicates Claims 2 and 13-21 are rejected as non-statutory under 35 U.S.C. 101 because the Specification at paragraphs [0030]-[0040] refer to: (1) acoustic or light waves as transmission media, and (2) a “carrier wave” as a computer-readable medium. In response, amended paragraphs [0039] and [0040] omit reference to: (1) a carrier wave; and (2) transmission media including acoustic or light waves, making the rejection moot. Applicants respectfully request reconsideration and withdrawal of the rejection.

## II. ISSUES RELATING TO PRIOR ART

### A. CLAIMS 4, 13 AND 22 --- 35 U.S.C. § 102(e)

The Office action at pages 4-6 rejects Claims 4, 13 and 22 as allegedly anticipated by U.S. Patent 7,321,936 (“Zimmerman”). This rejection is respectfully traversed.

Regarding Claim 4, this claim recites the following (emphasis added):

A method for configuring a network device in a network, the method comprising the machine-implemented steps of:

supplying first boot data to the network device over the network, wherein processing of the first boot data by the network device during a first startup of the network device causes the network device to execute a provisioning process over the network;

instructing the provisioning process to supply image data to the network device over the network, wherein the image data includes one or more computer programs; and

**supplying second boot data to the network device over the network, wherein processing of the second boot data by the network device during a second startup of the network device causes the network device to execute at least one of the one or more computer programs contained in the image data.**

Current Claim 4 includes the feature of “supplying second boot data to the network device over the network, wherein processing of the second boot data by the network device during a second startup of the network device causes the network device to execute at least one of the one or more computer programs contained in the image data;” current independent Claims 1-3, 13 and 22 recite the same feature.

The Office action at page 4 correlates the supply of second boot data to Zimmerman at column 3 lines 28-33. The portion of Zimmerman cited by the Office action makes reference to “PXE” code, which is later described at column 8 lines 61-63 as “Pre-Boot EXecution Environment.” However, the portion of Zimmerman cited by the Office action, as well as all of Zimmerman, describe downloading and execution of software during a single booting process.

For example, Zimmerman at column 9 line 41 through column 13 line 67 and Fig. 5 describes booting a client PC “client” 2 from a “hibernation file” 20 stored on a server 4. During the first (and only) booting of client 2, hardware is initialized (steps 502-504), PXE code is executed (steps 506-508), the Master Boot Record is loaded and executed (steps 510-514), the operating system Master Boot record is loaded and executed (steps 516-526), the hibernation image is loaded (steps 528-532), and the operating system is executed (steps 534-544). In Zimmerman, no reference to a second startup of the network device is made, and similarly, no reference to execution of one or more computer programs contained in the image data after a second startup of the network device is made.

Thus Zimmerman neither discloses nor suggests Applicants’ claimed feature of “supplying second boot data to the network device over the network, wherein processing of the second boot data by the network device during a second startup of the network device causes the network device to execute at least one of the one or more computer programs contained in the image data.”

In fact, once a client is configured using the system and method of Zimmerman, the client performs the steps of Fig. 4 or Fig. 5, and never receives one or more computer programs to be executed during another startup; with the system and method of Zimmerman, the client neither receives instructions to be executed on the next startup, nor receives a second startup command. Accordingly, Zimmerman cannot anticipate the features of Applicants’ Claims 4, 13 and 22, and Applicants respectfully request reconsideration and withdrawal of the rejections based on anticipation.

B. CLAIMS 1-3, 5-12, 14-21, AND 23-30 --- 35 U.S.C. § 103(a)

The Office action at pages 7-17 rejects Claims 1-3, 5, 8-12, 14, 17-21, 23 and 26-30 as allegedly unpatentable over Zimmerman, in view of U.S. Patent 6,223,218 (“Iijima”).

The Office action at pages 17-19 rejects Claims 6-7, 15-16 and 24-25 as allegedly unpatentable over Zimmerman, in view of Iijima and further in view of U.S. Patent 7,069,428 (“Miyamoto”). These rejections are respectfully traversed.

As shown above regarding independent Claims 1-3, 13 and 22, Zimmerman fails to disclose or suggest Applicants’ claimed feature of “supplying second boot data to the network device over the network, wherein processing of the second boot data by the network device during a second startup of the network device causes the network device to execute at least one of the one or more computer programs contained in the image data.”

Similarly, no combination of one or more of {Zimmerman, Iijima, Miyamoto} discloses or suggests Applicants’ claimed feature recited above. Both the virtual local area network configuration of Iijima, and the system for managing boot-up of target computers of Miyamoto, fail to include logic that prepares second boot data for a second startup of a network device. Neither reference even suggests performing a second startup of a network device. Accordingly, no combination of the references discloses or suggests Applicants’ claimed invention, and Applicants respectfully request reconsideration and withdrawal of the rejections based on obviousness.

### III. CONCLUSION

The pending claims not discussed so far are dependent claims that depend on an independent claim that is discussed above. Because each of the dependent claims include the limitations of claims upon which they depend, the dependent claims are patentable for at least those reasons the claims upon which the dependent claims depend are patentable. Removal of the rejections with respect to the dependent claims and allowance of the dependent claims is respectfully requested. In addition, the dependent claims introduce additional limitations that independently render them patentable. Due to the fundamental difference already identified, a separate discussion of those limitations is not included at this time.

For the reasons set forth above, Applicants respectfully submit that all pending claims are patentable over the art of record, including the art cited but not applied. Accordingly, allowance of all claims is hereby respectfully solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firm check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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